

§ 143B-437.020. Natural gas and propane gas for agricultural projects.

(a) Definitions. –

- (1) Agriculture. – Activities defined in G.S. 106-581.1, whether performed on or off the farm.
- (2) Repealed by Session Laws 2014-100, s. 15.13(a), effective July 1, 2014.
- (3) Eligible project. – A discrete and specific economic development project for an agricultural operation or agricultural processing facility that requests natural gas or propane gas service. A project intended for the purpose of commercial resale of natural gas or propane gas shall not be an eligible project.
- (4) Excess infrastructure costs. – Any project carrying costs incurred by a natural gas local distribution company to provide new or expanded natural gas service to an eligible project that exceed the income the infrastructure generates for the local natural gas distribution company, including any standard rates, special contract rates, minimum margin agreements, and contributions in aid of construction collected by the natural gas local distribution company.
- (5) Project carrying costs. – All costs, including depreciation, taxes, operation and maintenance expenses, and, for a natural gas local distribution company, a return on investment equal to the rate of return approved by the Utilities Commission in the natural gas local distribution company's most recent general rate case under G.S. 62-133.
- (6) Secretary. – The Secretary of Commerce.

(a1) Establishment. – The Expanded Gas Products Service to Agriculture Fund is established as a special revenue fund in the Department of Commerce.

(b) Facilitation of New and Expanded Natural Gas Service to Agricultural Projects. – The Secretary may disburse moneys in the Expanded Gas Products Service to Agriculture Fund for the following purposes:

- (1) To allow the owner of an eligible project to pay for excess infrastructure costs associated with the eligible project.
- (2) To allow the owner of an eligible project to pay for cost-effective alternatives that would reduce excess infrastructure costs, including:
 - a. Relocating equipment that uses natural gas to a different location on the property nearer existing natural gas lines to reduce or eliminate the project carrying costs.
 - b. Adding supplemental uses of natural gas to increase annual volume throughput and enhance the feasibility of new natural gas service, including fuel for tractors and equipment, greenhouses, plant or animal production, feed grain drying, and natural gas powered irrigation pumps.

(c) Facilitation of New and Expanded Propane Gas Service to Agricultural Production. – The Secretary may disburse moneys in the Expanded Gas Products Service to Agriculture Fund to allow the owner of an eligible project to pay for cost-effective alternatives that would do any of the following:

- (1) Reduce infrastructure costs.
- (2) Increase energy efficiency or reduce energy consumption.
- (3) Reduce energy costs.
- (4) Enhance the feasibility of the project or the provision of propane gas service by adding supplemental uses of propane gas to increase annual volume throughput, including (i) to convert or repower tractors, trucks, vehicles, and

mowers to use propane gas, (ii) to provide propane gas powered tractors, equipment, appliances, irrigation pumps, and dryers to service agricultural production facilities or operations, or (iii) to provide a dispensing station for the project owner's use.

(d) Use of Funds. – Disbursements made pursuant to subsection (b) or (c) of this section shall be paid directly to the owner of the eligible project.

(e) Termination. – Disbursements made pursuant to subsection (b) of this section shall terminate when there are no longer excess infrastructure costs.

(f) Forfeiture. – An owner of an eligible project who receives a disbursement pursuant to subsection (b) or (c) of this section forfeits the amount disbursed if the owner fails to maintain business operations for a period of at least five years from the date of initial utilization of the disbursement. An owner that forfeits amounts disbursed under this section is liable for the amount disbursed plus interest at the rate established under G.S. 105-241.21, computed from the date of the disbursement.

(g) Allocation of Funds. – The Secretary shall transfer from the Utility Account to the Expanded Gas Products Service to Agriculture Fund at least five million dollars (\$5,000,000) per biennium, as defined in G.S. 143C-1-1. If funds appropriated for the Job Development Investment Grant Program, the One North Carolina Fund, or a combination of these programs remain unexpended and unencumbered at the end of the fiscal year, those unexpended and unencumbered funds shall be used to reimburse the Utility Account for transfers made during the fiscal year pursuant to this section, notwithstanding job creation or other statutory requirements otherwise applicable to the programs or funds.

(h) Mechanism not Exclusive. – The utilization of funds in accordance with subsections (b) or (c) of this section is intended to supplement other available mechanisms for the extension of service to new or expanding customers and may be used in conjunction with special contract arrangements, minimum margin agreements, and contributions in aid of construction.

(i) Reporting Requirement. – The Secretary shall publish a report each quarter on the program, including a list of the eligible projects that have applied for funding, a list of the eligible projects that have received funding, the amount of funds allocated to the program, and the amount of funds allocated to eligible projects. The Secretary must make the report available to the public and must submit the report to the Joint Legislative Commission on Energy Policy.

(j) The Department of Commerce shall develop guidelines related to the administration of the Expanded Gas Products Service to Agriculture Fund and to the selection of projects to receive allocations from the Fund. At least 20 days before the effective date of any guidelines or nontechnical amendments to guidelines, the Department of Commerce must publish the proposed guidelines on the Department's Web site and provide notice to persons who have requested notice of proposed guidelines. In addition, the Department must accept oral and written comments on the proposed guidelines during the 15 business days beginning on the first day that the Department has completed these notifications. For the purpose of this section, a technical amendment is either of the following:

- (1) An amendment that corrects a spelling or grammatical error.
- (2) An amendment that makes a clarification based on public comment and could have been anticipated by the public notice that immediately preceded the public comment. (2013-367, s. 1; 2014-100, s. 15.13(a); 2015-263, s. 30; 2016-113, s. 15.)